
Appeal Decision

Site visit made on 3 December 2019 by John Gunn DipTP Dip DBE MRTPI

Decision by Kenneth Stone BSC(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th February 2020

Appeal Ref: APP/V0510/W/19/3237484

Site north east of 2 Main St, Wardy Hill CB6 2DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr J. Eaton against the decision of East Cambridgeshire District Council.
 - The application Ref 19/00644/FUL, dated 30 April 2019, was refused by notice dated 24 June 2019.
 - The development is proposed 3 bed dwelling.
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Decision

1. The appeal is allowed, and planning permission is granted for a 3 bed dwelling at the site north east of 2 Main St, Wardy Hill CB6 2DF, in accordance with the terms of application Ref 19/00644/FUL, dated 30 April 2019 and the following conditions contained in the schedule at the end of this decision.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues are
 - the effect of the development on the character and appearance of the area with particular regard to the development's design, and
 - the effect the development would have on the living conditions of the future occupiers of the appeal property and the occupiers of the dwelling being erected on the building plot to the west, having particular regard to loss of privacy

Reasons for the Recommendation

Character and appearance

4. The Appeal Site is located on the eastern edge of the village, with open countryside to the north and east. The random arrangement of the buildings

- along Main Road, combined with the mixture of house sizes, styles, materials and age, define the character and appearance of the area
5. The proposed dwelling would sit to the rear of No 2 Main Road and would have a frontage onto Main Road. It would be of modest scale and proportions. It would be built of buff bricks and have a mock slate roof incorporating dormers on the eastern and northern elevations.
 6. There is no dispute that the site is located outside the settlement boundary of Wardy Hill as defined on the insert map 8.43 of the Policies map contained within the LP. As a result, the development would fail to comply with Policy Growth 2. However, the Council acknowledge, in their officers report, that the principle of development would be acceptable subject to compliance with other local and material planning policies.
 7. The Council consider that the proposal would be contrived and, for the most part, would not share a boundary with existing residential development. Whilst acknowledging that two of its boundaries face onto open countryside, the appeal site does have common boundaries with other existing residential properties to the west and the south. Furthermore, the site is currently enclosed by hedges. It appears to be more closely associated with the adjacent residential properties than the open countryside which lies to the north and east.
 8. On my site visit I noted that the village was approached across open countryside through a series of sweeping bends. Glimpses of No 2, and a new dwelling being built to its rear, could be seen behind an existing conifer hedge that marks the eastern boundary of the appeal site. The removal of the existing conifer hedge and its replacement with a new mixed hedge would initially open up views at the entrance to the village. However, once a new hedge has matured a softer edge to the village would be established.
 9. The position of the proposed new dwelling on the appeal site would allow views between buildings to the properties beyond it. It would complement the random layout of the village. The materials proposed would blend with No 2, but contrast with the dark stained timber boarding and pantiles on the dwelling being built on the neighbouring plot. Consequently, it is not considered that the development would result in significant harm to the character or visual appearance of the area.
 10. The Council has expressed concern about the design of the proposed dormers with particular reference to their proportions and roof angle. On my site visit I noted that there were only a few examples of dormer windows in the village and there was no typical design. More recent developments provide examples of dormers set within dropped eaves including the dwelling on the neighbouring building plot. The proposed dormers are well sited in relation to other design features on the property and would provide a well-balanced appearance to the proposed dwelling. They would not dominate the roof or detract from the character or appearance of the host building or the area.
 11. For the reasons given above I conclude that the development would be sympathetic to the local character, taking into consideration the relationship it

has with existing development and the surrounding open countryside. It would enhance and complement local distinctiveness and public amenity and would be well related to existing features. It would introduce an appropriate form of design at the entrance to the village. The development would not have a harmful effect on the character and appearance of the area. Consequently, it would not conflict with Policy Growth 2 of the East Cambridgeshire Local Plan 2015 (LP), which seeks to focus development within defined settlement boundaries, nor Policy ENV2 of the LP and the East Cambridgeshire District Council March 2012 Design Guide Supplementary Planning Document (SPD) which jointly seek to secure high quality design.

Living conditions

12. The appeal site is bordered on its western boundary by the garden of a new dwelling that is being constructed to the rear of No 2 Main Road. There is a dormer window in the neighbouring property, serving a bedroom, facing the appeal site. The proposed dwelling would have a garden abutting the western boundary with additional provision to the north and east. Patio areas are proposed on the western, northern and eastern sides of the proposed property. Access to the garden, and its associated patio areas, would be through bi-fold doors from either the kitchen/breakfast room or the living room.
13. The Council are concerned that the garden to the proposed dwelling would be overlooked from a first floor bedroom window of the dwelling that is currently under construction on a neighbouring plot of land. Furthermore, they consider that occupiers of the appeal property would be able to see into the bedroom of the neighbouring property from the garden of the proposed dwelling.
14. The SPD provides guidance on the separation distance that would be expected between inter-visible windows but does not indicate what is expected between windows and amenity areas.
15. The separation distance between the neighbouring property and the boundary of the appeal site would be at least 11 metres. There would be a direct line of sight between the bedroom window and the garden area to the west of the proposed dwelling, but other parts of the garden would lie at a greater distance and would only be viewed at an angle. The patio areas, which would be the subject of increased activity, sit close to the building and would be more distant from the boundary and would therefore be subject to more limited overlooking from the bedroom window. In built up areas it would be expected that some overlooking of garden space would occur. Whilst it is acknowledged that the occupiers of the appeal property would be overlooked this would only be to a limited degree and as a consequence they would not be subjected to a significant or unacceptable loss of privacy in their garden space.
16. The first floor bedroom window to the neighbouring property is limited in size and is some distance from the garden of the appeal property. The design of the neighbouring property results in most parts of the bedroom being set in from the eastern elevation which further limits views into the property. Furthermore, the elevated position and angle of view from the patio area of the garden would reduce visibility into the room. Consequently, the proposed development would

not result in a significant and unacceptable loss of the privacy to the neighbouring occupiers.

17. Whilst acknowledging that the west elevation has only one small window provision is made in the northern elevation to enable access to the patio areas from both the kitchen/breakfast room and the living room. Consequently, the future occupants would have good access to all of the patio areas.
18. I conclude, therefore, that the proposal would not have a harmful effect on the living conditions of the occupiers of the proposed dwelling or the neighbouring property with particular regard to privacy. It would not conflict with Policy ENV1 of the LP or the SPD which jointly seek to protect the residential amenity of nearby occupiers and users of new buildings.

Other Matters

19. The Council has expressed concern that the established planting of conifer trees would be removed and replaced with a mixed hedge, not native species and as such it would be at odds with the character of the area. I agree with the Council that the species suggested by the Appellant would not comprise native species that are typical for the area. This is a matter I am satisfied could be addressed by the imposition of a suitably worded condition to require details of an amended landscaping scheme incorporating a hedgerow with native species along the northern and eastern boundaries
20. The Appellant has drawn my attention to several sites where the Council has granted planning permission for the development of new dwellings in the locality or appeal decisions have been allowed. The context for each development did vary significantly and consequently, I was not able to make any direct comparisons with the appeal proposal. Accordingly, I can only attach very limited weight to this matter in my consideration of this appeal. Each planning application and appeal is determined on their merits.
21. The Council accept that the scheme would make a contribution, albeit small, to the supply of housing in the area, at a time when the Council is unable to demonstrate a five-year supply of deliverable housing sites. I afford this only limited weight given the small contribution that would be made.

Conditions

22. The Council has suggested a number of conditions it would wish to see imposed in the event that the appeal was allowed. I have considered these against the guidance set out in the National Planning Policy Framework and the Planning Practice Guidance.
23. To ensure that the development is undertaken as approved, a condition referring to the approved plans is necessary.
24. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other

- offsite receptors conditions requiring an investigation and risk assessment of the nature and extent of any contamination on the site with an appropriate remediation scheme are necessary.
25. To prevent the increased risk of flooding and to improve and protect water quality a condition requiring approval and implementation of a foul and surface water scheme, prior to the occupation of the dwelling is necessary.
 26. In the interests of highway safety conditions are provided controlling the location of any gates, the design of the access and the availability of turning facilities within the site.
 27. To safeguard the residential amenity of neighbouring occupiers conditions are necessary to control construction activity.
 28. Whilst the Council indicates that the site is unlikely to be of a sensitive nature for protected species it is adjacent to open countryside and therefore a condition which seeks to create and enhance habitats in accordance with Policy ENV7 of the LP is considered reasonable.
 29. A condition requiring compliance with the materials as shown on the submitted drawings and application form, in order to safeguard the character and appearance of the area, is considered reasonable.
 30. Planning Policy Guidance advises that 'permitted development' rights should be restricted only in exceptional circumstances. Whilst I have found in this case that the windows shown on the submitted plans provide an acceptable relationship between neighbouring properties that secure occupants privacy, any windows provided in the future may not provide the same level of protection. Consequently, a condition removing permitted development rights is considered necessary, in this instance, to control the installation of any additional windows at first floor level or above in the west or south facing elevations. This would ensure that satisfactory living conditions would be maintained for the occupiers of the development and the neighbouring property in the future.
 31. As discussed in my reasoning above a condition requiring an amended landscaping scheme is considered necessary in order for the proposed development to be in keeping with the rural character of the area.
 32. Conditions 3, 5 and 14 include pre-commencement elements and are necessary to ensure the development is undertaken in an appropriate sequence and details would be required before the works are started.

Conclusion

33. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed subject to the conditions set out above.

J Gunn

APPEAL PLANNING OFFICER

Inspector's Decision

34. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal should be allowed.

Kenneth Stone

INSPECTOR

SCHEDULE OF CONDITIONS FOR APPEAL: APP/V0510/W/19/3237484

1. The development hereby permitted shall be commenced within 3 years of the date of the approval of the last of the reserved matters.
 2. Development shall be carried out in accordance with the drawings listed below: Plan Reference: 01/2163/19, 02/2163/19, 03/2163/19, 04/2163/19, 05/2163/19 and 06/2163/19.
 3. No development shall take place until an investigation and risk assessment of the nature and extent of any contamination on the site, whether or not it originates on the site, has been undertaken. The investigation and risk assessment must be undertaken by competent persons, and a written report of the findings must be submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:
 - (i) A survey of the extent, scale and nature of contamination;
 - (ii) An assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; groundwaters and surface waters; ecological systems; archaeological sites and ancient monuments;
 - (iii) An appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.
- Any remediation works proposed shall be carried out in accordance with the approved details and timeframe as agreed in writing by the Local Planning Authority.
4. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported to the Local Planning Authority within 48 hours. No further works shall take place until an investigation and risk assessment has been undertaken and submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. The necessary remediation works shall be undertaken, and following completion of measures identified in the approved remediation scheme a verification report must be prepared, and approved in writing, by the Local Planning Authority.
 5. No development shall take place until a scheme to dispose of foul and surface water has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to the first occupation of the dwellings hereby approved.
 6. Prior to the first occupation of the dwelling hereby approved; any gate or gates to the vehicular access shall be set back a minimum of 6 m from the near edge of the highway carriageway. Any access gate or gates shall be hung to

open inwards. This style of access gate or gates shall be used at all times/thereafter be retained in perpetuity.

7. The access shall be as shown on plan 02/2163/19 and thereafter retained in perpetuity.

8. Prior to first occupation or commencement of use of the development sufficient space shall be provided within the site to enable vehicles to enter, turn and leave the site in forward gear and to park clear of the public highway. The area shall be levelled, surfaced and drained and thereafter retained for that specific use.

9. Construction times and deliveries, with the exception of fit-out, shall be limited to the following hours: 07:30 - 18:00; each day Monday-Friday, 08:00 - 13:00; Saturdays and none on Sundays or Bank Holidays or Public Holidays.

10. In the event of the foundations from the proposed development requiring piling, prior to the commencement of development the applicant shall submit a report/method statement to the Local Planning Authority, for approval in writing, detailing the type of piling and mitigation measures to be taken to protect local residents from noise and/or vibration. Noise and vibration control on the development shall be carried out in accordance with the approved details.

11. Prior to occupation a scheme of biodiversity improvements shall be submitted to and agreed in writing with the Local Planning Authority. The biodiversity improvements shall be installed prior to the first occupation of the hereby approved development and thereafter maintained in perpetuity.

12. The external materials to be used in the proposed development shall be those shown on the application form and Plan 05/2163/19 received 30th April 2019.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending, revoking or re-enacting that order) no windows, dormer windows, rooflights or openings of any other kind, other than those expressly authorised by this planning permission shall be constructed at first floor level or above in the west or south facing elevations without the prior written consent of the Local Planning Authority.

14. No development shall commence until there shall have been submitted to and approved in writing by the local planning authority an amended scheme of landscaping, incorporating a native species hedgerow on the northern and eastern boundaries. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

15. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5

years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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